

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

ALBERT NICOLAS §
v. § CIVIL ACTION NO. 6:09cv48
GREGORY DINGAS, ET AL. §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff Albert Nicolas, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged deprivations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

On February 24, 2009, Nicolas filed a motion asking that his lawsuit be dismissed. On March 2, 2009, the Magistrate Judge issued a Report recommending that this request be granted. A copy of the Magistrate Judge's Report was sent to Nicolas at his last known address, return receipt requested, but no objections have been received; accordingly, Nicolas is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the Plaintiff's motion for voluntary dismissal of his lawsuit (docket no. 6) is GRANTED and that the above-styled civil action be and hereby is DISMISSED without prejudice on the motion of the Plaintiff. Finally, it is

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

SIGNED this 30th day of March, 2009.



MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE